

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.6667 OF 2005**

The State of Maharashtra ...Applicant.
V/s.
Sudhir & Damodar Tatyasaheb Huparikar ...Respondents.

Mrs.V.R.Bhosale, APP for the Applicant/State.
Mr.Amit Shetye h/for A.B.Borkar, advs.for the
Respondents.

**CORAM: J.H.BHATIA, J.
DATE : 29th March, 2007.**

P.C.:

1. Heard Mrs.Bhosale, the learned APP for the State and Mr.Amit Shetye the learned counsel for the respondents. Perused the copy of the judgment and the copies of the evidence led by the prosecution.

2. Prosecution case, in brief, is that on 1st August, 1995 at about 11.00 p.m. the respondents/accused had been to the house of A.P.I.Mane (P.W.5) and asked him as to why the jeep of his brother had been detained by the police. He was under the influence of alcohol and was shouting. Some scuffle took place between the respondent and A.P.I.Mane. A.P.I.Mane overpowered him and directed another policeman Dattatray Hari Patil to keep watch on the respondent. Later on, the said Dattatray informed A.P.I.Mane that the respondent had snatched away his

wrist watch from his left hand and had run away. The said Dattatray Hari Patil lodged report and it was registered as crime no.79 of 2005 under Sections 392, 352 and 353 of the I.P.C. read with Section 85(1) of the Bombay Prohibition Act . After investigation chargesheet was filed on behalf of the prosecution. In all 7 witnesses were examined. However, the learned Trial Court found that the medical officer had not conducted appropriate tests to come to a conclusion that the respondent was under the influence of alcohol and secondly there was nothing to show that the respondent had behaved in disorderly manner in public place. The whole incident had occurred at the house of A.P.I.Mane and not at the public place. The learned Trial Court also noted that except bare words of Dattatray Hari Patil, there was no evidence to show that his wrist watch was snatched away by the accused/respondent. The learned trial Court also noted that even though according to the prosecution the said wrist watch was recovered on the basis of information given by the accused under Section 27 of the Evidence Act, no such evidence was produced before the Court. In view of these circumstances, the learned trial Court refused to place implicit reliance on Dattatray Hari Patil, who is a policeman. The learned Trial Court, therefore, acquitted the accused/respondent for all the charges.

The State seeks leave to prefer appeal against the acquittal.

3. After hearing the learned APP and the learned counsel for the respondents and perusal of the judgment and copies of the evidence, I find that judgment of the acquittal passed by the Trial Court does not suffer from any illegality, perversity or grave mistake.

4. In view of the above circumstances, I find that it is not a fit case to grant leave to prefer appeal therefore, the application seeking leave to prefer appeal stands rejected.

(J.H.Bhatia, J.)